IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

W.P.NOS.13924, 13956 & 15107 OF 2004

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WRIT PETITION NO : 13924 of 2004

Between:

M/s Telangana Spinning & Weaving Mills Ltd., Registered Office at Balanagar Town ship,Hyderabad rep by Managing Director Sri. R.G. Patwari S/o Sri Mohanlal Patwari, R/o Banjara Hills, Hyderabad

..... PETITIONER

AND

1 The Appellate Deputy Commissioner of Commercial Tax,

Hyderabad Rural Division, Office at 3rd Floor,
Nampally, Hyderabad
2 The Commercial Tax Officer, Jeedimetla Circle, RR District
3 The State of Andhra Pradesh, Department of Revenue Secretariat

Building, Saifabad, Hyderabad, rep by Principal Secretary to the

Government of Andhra Pradesh

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue notice, call for records, quash and set aside the impugned order of rejection of

the appeal filed under Section 19 (1) of the APGST Act by the 1st Respondent herein vide proceedings G.I. NO.R/142/2003, dated 23/03/2004 (Received on 07/06/2004) primarily on the ground that the appellant who is the petitioner herein failed to fulfill the condition under 2nd provision to section 19 (1) of APGST Act i.e. payment of tax @ 12.5% Rs. 74, 500/- as the same is arbitrary, unjust illegal and violative of Article 14, 19 (1)(g) 39A of the Constitution of India apart from Section 22(1) and 32 of SICA and while striking down the 2nd proviso to Section 19(1) of APGST Act direct the 1st respondent to entertain the appeal preferred against the provisional Assessment order in Proceedings GI NO. 2001-2002 (CST), dated 18-02-2002 for the Assessment year 2001-2002 by the 2nd Respondent and to grant such other relief or the relief's as the petitioners is found entitled to in law by issuance of a Writ more particularly a Writ in the nature of Writ of Certiorari or any other appropriate Writ or order as the Hon'ble Court be deem fit and proper in the circumstances of the case or else the petitioner herein will be put to great hardship and suffer irreparable loss.

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WRIT PETITION NO : 13956 of 2004

Between:

M/s Telangana Spinning & Weaving Mills Ltd, Registered Office at Balanagar Town Ship, Hyderabad,
Rep. by its Managing Director, Sri R.G. Patwari S/o Sri Mohanlal Patwari, Aged 65 years, R/o Banjara Hills, Hyderabad.

..... PETITIONER

AND

1 The Appellate Deputy Commissioner of Commercial Tax,

Hyderabad Rural Division,
3rd Floor, Nampally, Hyderabad.
2 The Commercial Tax Officer, Jeedimetla Circle,

Ranga Reddy District.
3 The State of Andhra Pradesh, Department of Revenue, Secretariat

Building, Saifabad, Hyderabad, Rep. by its Principal Secretary to

the Government of Andhra Pradesh.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue notice call for records, quash and set aside the impugned order of rejection of

the appeal filed under section 19(1) of the A.P.G.S.T. Act by the 1st respondent herein vide proceedings G.I.No. R/143/2003, dated 23-3-2004 (Received on 7-6-2004) primarily on the ground that the appellant who is the Petitioner herein failed to fulfill the condition under 2nd Provision to Section 19(1) of A.P.G.S.T. Act i.e., payment of tax @ 12.5% Rs. 1,06,386/- as the same is arbitrary, unjust, illegal and violative of Article 14, 19 (1) (g) 39A of the Constitution of India apart from section 22 (1) and 32 of SICA and while striking down the 2nd Proviso to Section 19(1) of A.P.G.S.T. Act, direct the 1st Respondent to entertain the appeal preferred against the Provisional Assessment order in proceedings G.I.No. 2002-2003 by the 2nd Respondent and to grant such other relief or the relief's as the Petitioner is found entitled to in law by issuance of a writ more particularly a writ in the nature of Writ of Certiorari or any other appropriate writ or order as the Hon'ble Court be deem fit and proper in the circumstances of the case or else the petitioner herein will be put to great hardship and suffer irreparable loss.

WRIT PETITION NO : 15107 of 2004

Between:

M/s.Telangana Spinning & Weaving Mills Ltd., Registered Office at Balanagar Township, Hyderabad,
rep., by its Managing Director, Sri R.G.Patwari, s/o Sri Mohanlal Patwari, aged 65 years, r/o Banjara Hills, Hyderabad.

..... PETITIONER

AND

1 The Appellate Deputy Commissioner of Commercial Tax,

Hyderabad Rural Division,
Office at 3rd Floor, Nampally, Hyderabad.
2 The Commercial tax Officer, Jeedimetla Circle, R.R.District.
3 The State of Andhra Pradesh, Department of Revenue,
Secretariat Building, Saifabad, Hyderabad, rep., by its Principal

Secretary to the Government of
Andhra Pradesh

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue notice, call for records, quash and set aside the impugned order of rejection of the appeal filed u/s 19 of the APGST Act by the 1st respondent herein vide proceedings G.I.No.R/172 dated 23/03/2004 (Received on 30/04/2004) on the ground that the delay of 59 days in filing the appeal cannot be condoned for more than 20 days in terms of Section 19(1) of APGST Act, 1957, as the same is arbitrary, unjust, illegal and violative of Section 5 of Limitation Act, Article 14, 19(1)(g) , 251 of Constitution of India apart from being vioaltive of Section 22(1)& 31 of Sick industrial Companies (Special Provisions) Act, 1985 and while striking down the limitation of power to condone the delay of only 30 days in Section 19(1) of APGST Act,

consequently direct the 1st respondent to entertain the appeal against the Assessment Order in Proceedings G.I.No. /96-97 and the notice demanding a sum of Rs.24,27,579/- thereof by the 2nd respondent and to grant such other relief or the reliefs as the petitioner is found entitled to in law by issuance of writ more particularly a writ in the nature of a writ of certiorari or any other appropriate writ or order as the Hon'ble Court be deem fit and proper in the circumstances of the case or else the petitioner herein will be put to great hardship and suffer irreparable loss

Counsel for the Petitioner: MR.CH.RAMESH BABU

Counsel for the Respondents: Mr.K.Raji Reddy, Special Standing Counsel for COMMERCIAL TAX

The Court at the stage of admission made the following :

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COMMON ORDER : (per Sri BRSR.J)

Sri CH.Ramesh Babu, learned counsel for the petitioner submits that these writ petitions are directed against the orders of provisional assessment and the cause in these writ petitions no more survive in view of the fact that final assessment orders have been passed on 6.11.2004. In such view of the matter, these writ petitions are dismissed as infructuous. No costs.

(B.SUDERSHAN REDDY,J)

dated 13..04..2005

(C.V.RAMULU,J)

To

1 The Appellate Deputy Commissioner of Commercial Tax,

Hyderabad Rural Division,
Office at 3rd Floor, Nampally, Hyderabad.

2 The Commercial tax Officer, Jeedimetla Circle, R.R.District.

3 The Principal Secretary to the Government of
Andhra Pradesh, Department of Revenue,
Secretariat Building, Saifabad, Hyderabad.

4 2 CCs to the Special Government Pleader for Taxes, High Court of

A.P. Hyderabad (OUT)

5 2 CD copies